

Costs agreement

This agreement is made on [date]

between

NolanLegal of L6/99 Queen Street, Melbourne, VIC (**Law Practice**, referred to in this Costs Agreement as we or us)

and

[client name] of [address] (**Client**, referred to in this Costs Agreement as you).

OPERATIVE PROVISIONS

1 Introduction

- (a) This document is a **Costs Agreement** and it is a contract between you and us.
- (b) This Costs Agreement is what determines, among other things:
 - (i) the work that we do for you; and
 - (ii) the fees that you pay us to do that work.
- (c) In this Costs Agreement, we provide you with a number of explanations, referred to as disclosures.
- (d) You have a right to negotiate with us about this Costs Agreement.

2 How you accept the terms of this Costs Agreement

- (a) By providing you this Costs Agreement, we are making an offer to act for you on the terms that it contains.
- (b) You may accept our offer by signing the Costs Agreement and returning it to us. There are no other means for you to accept the Costs Agreement.

3 What we will do for you

- (a) The work we will do for you is described in this Proposal.
- (b) We will not do any other work for you unless:
 - (i) you expressly instruct us to do so; and
 - (ii) we choose to accept your instruction.

4 Legal costs

4.1 How your legal costs will be calculated

- (a) We will charge you fees for the time that our professional staff spend doing work for you. In the rest of the Costs Agreement, we refer to this as time spent.

- (b) The fees that we charge are set out in the Fee Table in this Proposal. By selecting a fee package you are committing to paying our fees under this Costs Agreement.
- (c) If you elect to be charged on an hourly rate basis, fees will be charged at an hourly rate for time spent and is calculated in 6 minute increments.
- (d) Regardless of whether you elect to be charged on an hourly rate or monthly retainer basis, at the same time that we do work for you, or shortly afterwards, we will make a record of the amount of time spent doing that work.
- (e) The time spent doing work for you includes, but is not limited to:
 - (i) attending meetings (face to face and by telephone etc);
 - (ii) considering issues;
 - (iii) briefing external professional advisers and counsel;
 - (iv) drafting file notes of telephone calls and meetings;
 - (v) drafting letters;
 - (vi) drafting and preparing documents;
 - (vii) participating in telephone calls;
 - (viii) research;
 - (ix) attending regulatory bodies, ASX and/or court and
 - (x) waiting time.
- (f) Our rates are as set out in this Proposal. Our rates are blended, so if we engage other personnel to undertake work on your matters, no additional charges will be made.
- (g) We may increase our hourly rates:
 - (i) if we do, we will give you at least 90 days' notice of that intention; and
 - (ii) if you do not want us to continue working for you after we give you notice of our intention to increase our hourly rates, you may write to us saying so;
 - (A) the Costs Agreement and your retainer with us will then be ended; and
 - (B) we will issue a final invoice for work done up to the date we receive your letter.
- (h) Our rates will not be increased at any higher percentage than the amount of any increase in the hourly rates:
 - (i) that would otherwise apply, as prescribed by law, for the work that we do for you; and
 - (ii) if there was no Costs Agreement between you and us.
- (i) GST will be added to all rates, charges and expenses stated in this Costs Agreement.

- (j) All expenses and disbursements that we pay to others on your behalf will be invoiced to you. We will obtain your instructions before incurring these expenses and disbursements on your behalf unless the expense is:
 - (i) less than \$200; and
 - (ii) for a title search, company search, process server or courier.
- (k) The expenses and disbursements that may be invoiced to you include, but are not limited to:
 - (i) court filing fees;
 - (ii) counsel fees;
 - (iii) courier fees;
 - (iv) expert reports;
 - (v) inquiry fees;
 - (vi) medical reports;
 - (vii) obtaining copies of records;
 - (viii) process server fees;
 - (ix) search fees;
 - (x) travel expenses;
 - (xi) transcripts; and
 - (xii) witness expenses.
- (l) You may ask us for a written progress report on the work that we have done. We will charge our normal rates to provide you the written progress report.

4.2 Invoicing

- (a) It is your right as our client to receive an invoice for your bill from us. Your bill will contain detailed information about our professional fees, charges, expenses and disbursements.
- (b) We will send you an invoice every month. We may choose to send the invoices to you by email to the email address in clause 12 of this Costs Agreement.
- (c) If you elect to engage us on a fixed rate retainer basis you will be invoiced in advance.
- (d) If you choose payment on an hourly rate basis, or if you elect to enter into a retainer arrangement and additional time in excess of the retainer is required, you will be charged in arrears for the hours spent on your matters.
- (e) Invoices must be paid within 7 days, starting from the date by which you are reasonably considered to have received the invoice.
- (f) We will charge you a transaction fee if you pay by credit card at 2%.]

4.3 Our estimate of what you will pay

- (a) Our proposal sets out our estimates of what we expect your total legal costs to be to the extent that we can ascertain them at this time.
- (b) Any assumptions we have made that may impact the accuracy of our estimates of the time required to assist you are also set out in our proposal.
- (c) We are required to provide you with an update of the estimates we have made if there are changes in circumstances which affect it.

4.4 Interest, guarantee and security for payment

- (a) We may charge you interest if our invoice is not paid within 5 days of its date. Interest will be calculated at the benchmark rate of interest prescribed by the Legal Profession Uniform Law.
- (b) If you enter into this Costs Agreement as an agent of someone else, in the absence of a written agreement to the contrary, you accept personal liability for the payment of our invoices.
- (c) If you sign this Costs Agreement as a director or secretary of a corporation, in order for the corporation to execute this Costs Agreement you:
 - (i) accept joint and several liability with that corporation for payment of our invoices; and
 - (ii) guarantee to meet the obligations of that corporation,in consideration for which we will act for that corporation.
- (d) If you own any interest in real property solely or jointly with any other person, you agree to:
 - (i) charge that interest as security for payment of our invoices; and
 - (ii) allow us to lodge an absolute caveat on the title of any such property for this purpose.
- (e) This clause applies even if you are liable to us under clauses 4.4(b) and 4.4(c).]

5 Termination

5.1 Termination by us

- (a) We may terminate this Costs Agreement and the contract between you and us if:
 - (i) it would be unethical for us to continue to work for you;
 - (ii) you fail to pay our invoice by the date payment is due;
 - (iii) you do not provide us with adequate instructions within a reasonable time;
 - (iv) you give instructions that are deliberately false or intentionally misleading;
 - (v) you indicate to us that we have lost your confidence; or
 - (vi) for any other just cause arising from time to time.
- (b) We will give you at least 14 days' notice of our intention to terminate and our grounds.

- (c) During the time between us giving you 14 days' notice of our intention to terminate and us actually terminating:
 - (i) we will not be obliged to do any work for you if it would be unethical for us to do so;
 - (ii) you have the opportunity to remedy any default; and
 - (iii) you may negotiate if you disagree with our grounds for the proposed termination.

5.2 Termination by you

You may terminate this Costs Agreement at any time by giving notice to us.

6 Sending documents and other material electronically

We are able to send and receive documents electronically. However, as such transmission may not be secure it may be copied, recorded, read or interfered with by third parties while in transit. If you ask us to transmit any document electronically, you release us from any claim you may have as a result of any unauthorised copying, recording, reading or interference with that document, for any delay or non-delivery of any document and for any damage caused to your system or any files.

7 Lien over your documents

Subject to our legal and professional obligations, we may keep all of your:

- (a) documents;
- (b) files; and
- (c) personal property,

that we possess which relates to the work we do for you, until you pay all our invoices that are payable by you. This is known as a lien.]

8 Applicable law

- (a) The law of Victoria applies to this Costs Agreement and the contract generally between you and us.
- (b) If the work we are doing for you has a substantial connection with a different state or territory, you may enter into a costs agreement and contract with us on the basis of that law. If you wish to do so, please inform us before signing this Costs Agreement. We are entitled to withdraw our offer to act for you if we do not want to enter into a costs agreement and contract with you on that basis.

9 Things you need to know

9.1 Getting advice about this document

- (a) You should take the time to read this document carefully.
- (b) You are welcome to ask us questions about this document, but we will not provide you legal advice about it. If you wish to receive legal advice, you should approach another lawyer.
- (c) More information about the relationship between lawyers and their clients in Victoria can be found by looking at the Victorian Legal Services Board and Commissioner website.

10 Other terms

- (a) This Costs Agreement may only be varied in writing.
- (b) At any time, you may contact our principal, Cathryn Nolan, to discuss your legal costs. We will not charge you fees for doing so or providing you information about:
 - (i) the legal costs and disbursements you have incurred; or
 - (ii) our estimate of the total legal costs you will pay us to do the work covered by this Costs Agreement;
- (c) You have a right to:
 - (i) apply for a costs assessment;
 - (ii) apply to have this Costs Agreement set aside; and
 - (iii) make a complaint about us to the Office of the Legal Services Commissioner.

11 Statutory disclosures: legal costs — your right to know

You have the right to:

- (a) negotiate a costs agreement with us;
- (b) negotiate the billing method we use to calculate our fees to you (for example, by reference to timing or task);
- (c) receive a bill of costs from us;
- (d) request an itemised bill of costs after you receive a bill from us that is not itemised or is only partially itemised; and
- (e) seek the assistance of the Victorian Legal Services Board and Commissioner in the event of a dispute about legal costs with us.

12 Your contact details

- (a) Your Contact Details are:
 - (i) *[Option 1 (use if the Client is a company):*
 - Company name: [company name]
 - Contact person: [company contact name]
 - Street address: [company street address]
 - Postal address: [company postal address]
 - Email: [company contact email address]
 - Phone: [company phone number]
 - (ii) *[Option 2 (use if the Client is an individual):*

Name: [Client name]

Street address: [street address]

Postal address: [postal address]

Email: [email address]

Phone: [phone number]

- (b) Within 5 days of your contact details changing, you must provide us with the new details in writing.